



South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 10

May 4, 1993

No. 17

## CONTENTS

House Week in Review.....2

Bills Introduced.....3

S. C. STATE LIBRARY

MAY 06 1993

STATE DOCUMENTS

OFFICE OF RESEARCH

Room 309, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, ( 803)734-3230

### House Week in Review

On Wednesday, the House took up H. 3129, which renames Coastal Carolina College as "Coastal Carolina University" and provides for the university to become a separate and distinct institution of higher learning, apart from the University of South Carolina system. The House adopted an amendment to the bill so as to allow state institution bonds to be issued on behalf of the university. Two (2) other amendments, however, were defeated. One amendment would have prohibited, for 6 years, the university from requesting the Commission on Higher Education for approval for additional degree programs, beyond those offered by the university on the date it became separate and independent from the University of South Carolina system. Another amendment would have reduced the appropriations for the University of South Carolina based on the savings resulting from Coastal Carolina University having become an independent institution. The House then voted 82-3 to give second reading to the bill, and on Thursday 3rd reading was given and the bill was sent to the Senate.

Among the bills given 3rd reading last week were H. 3434, which prohibits a state agency head from being dually-employed by another state agency or institution of higher learning without prior approval by the Agency Head Salary Commission and the State Budget and Control Board; and H. 3552, which allows counties to establish special public works improvement districts.

On Wednesday 2 bills were placed on the House's contested calendar---H. 3180, which provides for the establishment of brewpubs, and H. 3246, the Consumer Motor Vehicle Freedom of Choice Act.

**Legislative Update, May 4, 1993**

**Bills Introduced**

-----

The following bills were introduced in the House last week. Not all bills introduced in the House are featured here. The summaries are arranged according to the committee to which the legislation was referred.

**Agriculture, Natural Resources and Environmental Affairs**

**Smoking Prohibited in Day Care Facilities** (S. 435, Sen. Jackson). This bill prohibits smoking in teacher lounges and enclosed offices of day care facilities.

**Watercraft Equipment, Operation and Handling** (S. 648, Sen. Saleeby). This is the companion bill to H. 3793, introduced in the House on March 30. The bill revises current laws pertaining to the titling, operation, and identification of watercraft and provides penalties for marine dealers who violate state law pertaining to titling of watercraft.

**Education and Public Works**

**Regulations State Board of Education Cannot Promulgate** (H. 4156, Rep. Corning). This bill prohibits the State Board of Education from promulgating regulations which require that a school principal's contracted salary be higher than the salary paid to a faculty or staff member of the school.

**Special License Plate for Nongame and Endangered Species** (S. 682, Sen. Courson). This bill requires the Department of Highways and Public Transportation to issue a special commemorative license plate for nongame and endangered species. The fee for this special plate is \$27, of which \$12 is allocated to the Nongame Wildlife and Natural Areas Fund. The charge for this plate is in addition to the regular license plate fee. The bill lists requirements for the size and design of the plate and requires revalidation of these plates every 12 months.



## Judiciary

**South Carolina Condominium Act** (H. 4158, Rep. Sturkie). This is a comprehensive bill designed to recognize the condominium form of ownership of real property and establish procedures for creation, sale and operation of condominiums. The bill defines "condominium" and provides that a condominium is created by recording a properly-executed and acknowledged declaration in the public records of the county where the land is created. The bill lists information which must be contained in the declaration and provides that the declaration may include covenants and restrictions concerning the use, occupancy and transfer of condominium units and other matters consistent with these provisions.

Among other features of this bill are the following:

---Provides for creation, operation, duties and powers of condominium associations and requires persons acting as condominium association managers to be licensed by the State Real Estate Commission. Also lists conditions under which a written contract to provide services or goods to a condominium association or property serving unit owners of the condominium is valid and enforceable.

---Requires the governing body of every condominium existing on January 1, 1994 to file with the Real Estate Commission by July 1, 1994 an information filing, including, as examples, information concerning the name and address of the condominium and the number of units.

---Lists practices in which developers of condominiums may not engage. As examples, developers may not use or publish names of consumers in promotional materials without the consumer's consent, nor may developers misrepresent the size or characteristics of condominiums or property services provided to condominiums.

---Requires condominium developers to prepare a prospectus or offering circular and file with and receive approval from the Real Estate Commission before entering into an enforceable contract of purchase and sale of a unit or lease of a unit for more than 5 years. This prospectus or circular must be furnished to each buyer or lessee. The bill lists information which must be included in the prospectus or circular; as examples, summaries of restrictions to be imposed on units concerning use of condominium property (children, pets, parking); any restrictions on the sale, transfer, lease or conveyance of a unit; and a description of recreational and other facilities to be use in common with other condominiums which require payment of maintenance and expenses of facilities by unit owners.

**Nonpartisan Election of Sheriffs** (S. 184, Sen. Stilwell). This bill requires that sheriffs be elected in nonpartisan elections. Nominations for sheriff must be by petition. The bill also lists political activities in which a candidate for election or re-election as sheriff may not engage; as examples, a candidate for



sheriff may not accept or solicit contributions from a political party. Anyone violating these provisions is guilty of a misdemeanor and upon conviction must be fined a maximum of \$5,000, imprisoned for up to 1 year, or both. These provisions apply to all sheriff's elections beginning in 1994.

**Abolishment of ABC Commission** (S. 323, Sen. Moore). This bill abolishes the Alcoholic Beverage Control Commission (ABC Commission) and terminates the terms of ABC commissioners as of January 1, 1994. The functions of the ABC Commission pertaining to licensing and penalties for administrative violation of law or regulations are transferred to the State Tax Commission, while the ABC Commission's functions pertaining to law enforcement, regulation, enforcement and inspections are transferred to the State Law Enforcement Division (SLED). The bill provides for the apportionment of the ABC Commission's personnel and property, along with fines, fees, forfeitures and revenues imposed or secured by the ABC Commission.

The bill also provides for a board of attorneys to act as ABC hearing officers. These officers are appointed by the Tax Commission, in consultation with the Attorney General. A maximum of 2 hearing officers are appointed from each congressional district, with the consent of a majority of both House and Senate members from the congressional district. If a legislative district lies in 2 congressional districts, then the General Assembly member must vote for a member in the congressional district which contains a majority of the legislative district's population. The bill also lists qualifications for hearing officers; as examples, hearing officers must have been licensed to practice law for at least 3 years and must have trial experience. The bill also provides for compensation of hearing officers, the length of their terms, and selection of a chairman of the board. The powers and the duties of these officers also are listed. Decisions made by hearing officers may be appealed to the Tax Commission. The bill also lists ethics guidelines for members of the Tax Commission and SLED as pertains to licensure and regulation of alcoholic beverages, and enforcement of alcoholic beverage laws.

**Screening of Candidates for Offices Elected by General Assembly** (S. 715, Sen. Holland). This bill revises provisions pertaining to the screening of candidates for offices which are filled (or elected) by the General Assembly. Under this bill, the joint legislative screening committee is required to rate candidates for an office as qualified, not qualified, or highly qualified, and the Merit Selection Panel, in submitting nominees for the Public Service Commission to the General Assembly, must ascertain that the nominees are legally and "otherwise" qualified for the position. Additionally, the bill lists conditions under which the Merit Panel may be granted additional time to submit nominations to the General Assembly and allows the joint legislative screening committee to reject nominations made by the panel. The panel also must consider the experience of potential



appointees in regulated utilities and environmental affairs in making nominations to the Public Service Commission.

### **Labor, Commerce and Industry**

**Workers' Compensation Reform and Definition of Insurance Fraud** (S. 540, Sen. Saleeby). This is the companion bill to H. 3709, introduced March 15, pertaining to provisions of the state's workers' compensation law. The bill revises provisions of the state's workers' compensation law so as, among other things, to define when a person with work-related stress is eligible for benefits; provide that the State, its municipal corporations and political subdivisions and employees of these 3 levels are subject to all provisions of the worker's compensation law; require employers engaged in improving a structure or the appearance of land to maintain proof of worker's compensation coverage for its direct and indirect employees; and prohibit a health care provider to demand of or cause a demand to be made on a worker's compensation claimant prior to the final adjudication of his claim.

The bill also defines the crime of "insurance fraud" and provides that any person or insurer who commits, conspires or assists to commit this act is guilty of a felony. Upon conviction, the person must be fined a maximum of \$50,000, imprisoned up to 5 years, or both. When appropriate, anyone convicted of insurance fraud can be required to make full restitution of any economic benefit or advantage which has been obtained through fraud. Upon receipt of an allegation of insurance fraud, the Attorney General is empowered to perform investigations, prosecute persons accused of committing this crime, and collect fines and restitution ordered by the court. To assist the attorney general in prosecuting insurance fraud, a Division of Insurance Fraud is established within the attorney general's office. The bill provides for funding of this division, procedures for reporting fraud, and exempts a person or insurer acting in good faith from civil or criminal liability for providing information concerning insurance fraud to an authorized agency.

**Ineligibility for Extended Benefits** (S. 661, Sen. V. Smith). This bill prohibits an individual from being eligible to receive extended benefits for any week of unemployment in his eligibility period if the individual has been disqualified for regular or extended benefits because he was discharged for cause, as opposed to misconduct. The bill also suspends several provisions affecting eligibility for extended benefits for weeks of unemployment beginning after March 6, 1993 and before January 1, 1995.

### **Medical, Military, Public and Municipal Affairs**

**Physicians' Assistants May Issue Prescriptions** (S. 622, Sen. Bryan). This bill allows physicians' assistants to prescribe



medications and allows the Department of Health and Environmental Control to issue registrations to nurse practitioners and physicians' assistants to prescribe certain medications. The bill also deletes provisions which allow the Board of Medical Examiners to authorize, under certain conditions, a physician to supervise more than 1 physician's assistant.

**Review of Plans of Care for Handicapped Persons in Facilities** (S. 701, Sen. Bryan). This bill provides that when the State Protection and Advocacy System for the Handicapped conducts a team advocacy inspection, for the purpose of reviewing living conditions in a residential facility, this review also includes the plans of care for individuals in a residential care facility and a community mental health day program.

### **Ways and Means**

**Settlement of Catawba Indian Land Claims** (S. 608, Sen. Hayes). This bill provides for the settlement of the Catawba Indian Land Claims settlement. The tribe claimed that its lands had been taken many years ago without congressional approval and had contemplated filing claims against over 60,000 individual landowners in 3 upstate counties (Chester, Lancaster and York). This settlement is designed to resolve the claim. Among its features are the following:

---A \$50 million settlement, of which the federal government pays \$32 million and the State pays \$12.5 million. The remaining \$5.5 million comes from local and private sources. The state's payments are to be made over 5 years, with a \$2.5 million payment every year. If the state's contribution falls short, the tribe has a cause of action against the state for the amount not paid when due.

---Allows the tribe to establish a tribal council, which may have criminal and civil jurisdiction and which may be vested with exclusive jurisdiction over internal matters of the tribe. However, if the tribe fails to establish a tribal council, then the State exercises jurisdiction over all civil and criminal cases arising out of acts and transactions occurring on the Reservation or involving members of the tribe.

---Lists provisions governing the playing of Bingo on the Reservation.

---All nonresidential buildings, fixtures and property improvements owned by the tribe or held in trust for the tribe by the United States are exempt from property taxes for 99 years after this settlement is effective.

---Residences located on the tribe's Reservation are exempt for property taxes, provided certain conditions as listed under the bill are met.

---Property and improvements owned by the tribe, its members, or both and which are not located on the Reservation are subject to property taxes.



---All personal property owned by the tribe and used solely on the Reservation is exempt from personal property taxes for 99 years following the effective date of the settlement. Motor vehicles owned by the tribe during the 99-year period are exempt from personal property taxes even if used off the Reservation. All personal property located on the Reservation which is not exempt from personal property taxes is subject to property taxes.

---The Tribe, its members and the Tribal Trust Funds are liable for the payment of all state and local sales and use taxes, except in limited circumstances; for example, purchases made by the tribe for tribal government functions are exempt from sales and local sales and use taxes for 99 years after this settlement becomes effective. However, the tribe must levy a special tribal sales tax on most items sold on the Reservation, with the tax rate equal to the state sales tax rate.

---All state and local environmental laws and regulations apply to the tribe and its reservation, and all public health codes of South Carolina and any county where the reservation is located are applicable to the reservation.

---The maximum land area authorized for the reservation is 4,200 acres, of which 600 acres include lands the tribe may not develop because of environmental considerations (flooding, etc.) or public right-of-way easements through the land. The bill lists provisions for expansion of the Reservation.

**Sales Tax Exemption for Monuments and Memorials** (S. 714, Sen. Williams). This bill provides that memorials or monuments erected or constructed in 1993 to honor public safety or law enforcement officials are exempt from payment of sales taxes.

#### **Without Reference**

**Payment of Catawba Indian Land Settlement Claim** (S. 695, Sen. Hayes). This bill requires that \$2.5 million be transferred from the Insurance Reserve Fund to the State's General Fund for the current fiscal year. This money must be held by the state treasurer in a special account and paid to the U.S. Interior Secretary for a portion of the settlement of the Catawba Indian Land Claim. Interest earned on money in this special account is credited to the Insurance Reserve Fund, and in each of the next 5 fiscal years following payment to the Interior Secretary, \$500,000 plus interest must be transferred from the general fund to the Insurance Reserve Fund.